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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,036	03/31/2004	John A. Salentine	367-27-002	9301
23935 7590 02/24/2010 KOPPEL, PATRICK, HEYBL & DAWSON 2815 Townsgate Road SUITE 215 Westlake Village, CA 91361-5827				
			EXAMINER LARSON, JUSTIN MATTHEW	
			ART UNIT 3782	PAPER NUMBER
			MAIL DATE 02/24/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/816,036

Applicant(s)

SALENTINE ET AL.

Examiner

Justin M. Larson

Art Unit

3782

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,6-11,14 and 16-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,6-11,14 and 16-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 December 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4, 6, 8-11, 14, 16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tien (US 5,620,120 A) in view of Wong (US 6,546,103 B1), and further in view of Muller (US 6,904,872 B2).

Regarding claims 1 and 4, Tien discloses a system comprising a mounting apparatus (20/21) and a holstering system (11) arranged to allow an electronic personal device to be mounted thereto, wherein said holstering system comprises a substantially U-shaped elevated slot (100). Tien fails to disclose a tether housing coupled between the mounting apparatus and the holstering system, wherein the tether housing includes an extendable/retractable tether attachable to said electronic personal device, said tether prevented from retracting past a certain point by a lanyard attachment that abuts said tether housing when said tether is fully retracted, and wherein the system includes a lanyard loop, said lanyard attachment allowing said lanyard loop to be suspended such that there is no tension between said tether housing and said personal device when mounted.

Regarding the tether housing, Wong teaches that it is desirable to provide a tether housing (10) with a tether (12) between a mounting apparatus (40/41) and a

holstering system (30) so that a portable electronic device will not accidentally fall to the ground and be damaged or get lost. It would have been obvious to one having ordinary skill in the art at the time the invention was made to implement a tether housing and tether between the mounting apparatus (20/21) and holstering system (11) of Tien, as taught by Wong, so that the personal electronic device of Tien would not fall to the ground and become damaged or lost.

Regarding the lanyard attachment and lanyard loop, Muller discloses a related tethering device (Figure 5) and teaches that it is desirable to provide such a tethering device with a lanyard attachment (connection between 11 and 30) that abuts the tether housing when the tether is fully retracted and an elastic lanyard loop (30) that prevents a sudden jerk-like force on the retractable tether when it has been extended to its full capacity (col. 4 lines 25-36). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the modified Tien device with a lanyard attachment along the tether and a lanyard loop between the end of the tether and the personal device in order to prevent a sudden jerk-like force on the tether when it has been extended to its full capacity, as taught by Muller.

The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over the modified Tien device which is capable of being used in the intended manner, i.e., the elevated slot receiving a pivoting ball of a personal device. There is no structure in the modified Tien device that would prohibit such functional intended use (see MPEP 2111).

Regarding claim 6, a leg (13) of the U-shaped elevated slot of the modified Tien device comprises a hinge (18/140) that acts in securing a personal device in the slot.

Regarding claims 8 and 9, the tether of the modified Tien device can be considered to extend through either a top or front surface of the housing, depending on how the housing is viewed.

Regarding claim 10, the modified Tien device includes a mounting clip (21).

Regarding claims 11, 14, 16, and 18, the modified Tien system includes the claimed features except for a spring internal to said tether housing. Wong, whose tether housing was added to Tien, mentions a spool but is silent as to the existence of a spring. Muller, however, teaches that it is known for such a tether housing to include an internal spring (9) for biasing the tether into a retracted position. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have included an internal spring in the tether housing of the modified Tien system in order to bias the tether into a retracted position, as taught by Muller.

3. Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tien in view of Wong and Muller as applied above, further in view of Campagna, Jr. (US 5,513,785 A).

The modified Tien device includes the claimed features except for a ratchet lock to hold the tether at a desired extended length. Campagna, however, teaches that it is known to provide a tether housing with a ratchet lock (68/69/70) to control the extended length of a tether. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the modified Tien device with a

ratchet lock in order to control the extended length of the tether, as taught by Campagna.

Response to Arguments

4. Applicant's arguments filed 12/18/09 have been fully considered but they are not persuasive. Applicant has asserted that Tien teaches away from any combination with Wong and Muller. Applicant has asserted that because Tien teaches a firm connection and/or locking switch between the phone and the holster, there is no concern for the phone falling off of the holster, and thus no need for any sort of tethering device between the phone and the holster. Examiner notes that Wong clearly teaches (see abstract, col. 1 lines 37-39, col. 1 lines 43-46, col. 2 lines 41-43) that it is desirable to have a tether between a phone and a holster so that the phone will not fall and become damaged or lost while in use, i.e. being used by the user while it is not attached to the holster. One of ordinary skill in the art would realize that such a tether would be useful on the Tien holster in order to prevent the phone from falling or becoming lost while in use, i.e. not attached to the holster. The fact that Tien teaches a firm connection and/or locking switch does not teach away from the use of a tether that prevents the phone from being dropped while in use by the user.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571)272-8649. The examiner can normally be reached on Monday-Friday, 9a-5p (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Justin M Larson/
Examiner, Art Unit 3782

/Nathan J. Newhouse/
Supervisory Patent Examiner, Art Unit 3782